

U.S. District Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>v.</p> <p>CHARLES ROLAND CHEATHAM, et al.,</p> <p>Defendants.</p>	<p>NO. CR18-131RAJ</p> <p>STIPULATED MOTION FOR ENTRY OF PROTECTIVE ORDER</p> <p>Note on Motion Calendar: September 21, 2018</p>
<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>v.</p> <p>MICHAEL SCOTT MORGAN, et al.,</p> <p>Defendants.</p>	<p>NO. CR18-132RAJ</p>

Stipulation for Entry of Protective Order - 7
U.S. v. Cheatham, et al., CR18-131RAJ; U.S. v. Morgan, et al., CR18-132RAJ;
U.S. v. Beasley, CR18-144RAJ; U.S. v. Armstrong, CR18-145RAJ;
U.S. v. Shepard, CR18-147RAJ; U.S. v. Zeigler, CR18-161RAJ

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1 UNITED STATES OF AMERICA,

2 Plaintiff,

3 v.

4
5 WESLEY ARMSTRONG,
6 BOBBY BEASLEY,
7 CLEOPHUS SHEPARD,
8 JIHAD ZEIGLER,

9 Defendants.

NO. CR18-144RAJ
CR18-145RAJ
CR18-147RAJ
CR18-161RAJ

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12 The United States of America, by and through Annette L. Hayes, United States
13 Attorney for the Western District of Washington, and Vincent T. Lombardi, Erin Becker
14 and Nicholas Manheim, Assistant United States Attorneys for said District, and the
15 undersigned Defendants, by and through their undersigned attorneys of record, hereby
16 stipulate and agree as follows

17 1. Defendants are currently charged in these related Indictments with various
18 controlled substances and/or firearms offenses. All of the Defendants except for
19 defendant Nathaniel Wells (Defendant 14 in *U.S. v. Cheatham*, CR18-131RAJ) join in
20 this stipulation.

21 2. The government anticipates that pursuant to its obligations under Federal
22 Rule of Criminal Procedure 16, Local CrR 16, the Jencks Act, 18 U.S.C. § 3500, *Brady*,
23 and *Giglio*, it will be required to produce discovery consisting of sensitive materials that
24 disclose: (1) Grand Jury testimony; (2) financial information, subscriber information
25 (including phone and utility subscriber information for third parties) and other personal
26 identifying information (“PII”)¹ obtained during the investigation, either via Grand Jury

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28 ¹ “PII” includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes full names, dates of birth, Social Security numbers (or other identification information), financial account

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1 subpoena and/or during the execution of search warrants; (3) other personal information
 2 about defendants and third parties, including but not limited to photographs (including
 3 sexually suggestive photographs of family members, defendants and/or witnesses) and
 4 other sensitive information obtained from the search of social media, cellular telephones
 5 and other digital devices seized during the investigation (collectively, the “Protected
 6 Material”).

7 3. This motion also seeks court authorization for the government to disclose
 8 documents to the defense that have been obtained via Grand Jury process. Pursuant to
 9 Title 12, United States Code, Sections 3401 – 3402, financial records subpoenaed by a
 10 grand jury are accorded protections as provided by Fed. R. Crim. P. 6(e). Testimony
 11 before the Grand Jury is also protected by the rule. By this motion, the government seeks
 12 permission to, at the appropriate time, unseal said materials for the limited purpose of
 13 providing said protected material to the defense in discovery per the Protective Order.

14 4. This Stipulation is submitted for the purpose of ensuring that the Protected
 15 Material contained in the discovery in this case is not disseminated to anyone other than
 16 counsel and the members of their respective litigation teams, and under certain
 17 circumstances, the Defendants.

18 5. Under the terms of the proposed Order, each Defendant will be provided
 19 with discovery in this case, either directly or through the Coordinating Discovery
 20 Attorney appointed by this court, including the “Protected Material.”

21 6. All Grand Jury transcripts, wiretap materials (including wiretap pleadings,
 22 which are already sealed by prior order of the Court), cellular telephone downloads,
 23 financial records (including phone and utility subscriber information for third parties),
 24
 25

26 information (including account numbers), tax information, driver’s license numbers, addresses, telephone numbers,
 27 locations of residences or employment, medical records, school records, juvenile criminal records, and other
 28 confidential information. The government has endeavored to redact PII as appropriate, but the parties acknowledge
 and agree that this will not always be possible, and that in some instances un-redacted PII may be necessary to the
 defense.

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1 and summaries of financial records provided during discovery will be considered
 2 Protected Material without further designation by the Government.

3 7. Other information believed by the Government to be Protected Material
 4 will be so designated by the Government. Said material may include, but is not limited
 5 to, criminal history reports for defendants and/or prospective government witnesses and
 6 related *Giglio* impeachment materials.

7 8. Possession of the Protected Material is limited to defense counsel, as well
 8 as defense counsels' investigators, paralegals, assistants, law clerks, and experts
 9 (hereinafter collectively referred to as "members of the defense team").

10 9. Members of the defense team may not provide copies of the Protected
 11 Material to other persons, including to any Defendant. In addition, defense counsel is
 12 required to provide a copy of this Protective Order to members of the defense team, and
 13 obtain written consent from members of the defense team of their acknowledgment to be
 14 bound by the terms and conditions of this Protective Order, prior to providing any
 15 Protected Material to the members of the defense team. The written consent need not be
 16 disclosed or produced to the United States unless reasonably requested by the Assistant
 17 United States Attorney and ordered by the Court.

18 10. Defendants who are held at the Federal Detention Center (FDC) will be
 19 permitted to review the Protected Material, consistent with the regulations established by
 20 the BOP, with or without their respective counsel in a controlled environment at the
 21 Federal Detention Center (FDC), but will be prohibited from printing out, copying, or
 22 disseminating the discovery. Defendants who are on pretrial release will be permitted to
 23 review the Protected Material at the offices of their counsel, but will be prohibited from
 24 printing out, copying, or disseminating the discovery.

25 11. Nothing in this Stipulation shall prevent any party from seeking
 26 modification of this Protective Order or from objecting to discovery that it believes to be
 27 otherwise improper. In the event that counsel for a defendant believes that the
 28 government has incorrectly designated material as Protected Material, said counsel

1 should first confer with the government to attempt to resolve the issue. If the parties are
2 unable to resolve the dispute, counsel is free to raise the issue with the Court by way of a
3 motion.

4 12. Nothing in this Stipulation shall be deemed to require the Government to
5 provide particular discovery at a time or in a fashion inconsistent with applicable law.
6 The failure to designate any materials as Protected Materials shall not constitute a waiver
7 of a party's assertion that the materials are covered by this Protective Order.

8 13. The parties respectfully request that the Court issue the proposed Protective
9 Order.

10 Respectfully submitted this 21st day of September, 2018.

11 ANNETTE L. HAYES
12 United States Attorney

13 /s/ Vincent T. Lombardi
14 VINCENT T. LOMBARDI
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SO STIPULATED this 21st day of September, 2018 (via email authorization).

United States v. Morgan, et al
CR18-132RAJ

/s/ Emma Scanlan

EMMA SCANLAN

Attorney for Michael Scott Morgan, Jr.

/s/ Sean Gillespie

SEAN GILLESPIE

Attorney for Tabid Abukar Mohamed

/s/ Paula Olson

PAULA OLSON

Attorney for Railen Janai Wheeler

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AIMEE SUTTON

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Attorney for Christopher Anthony Clay

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SCOTT ENGELHARD

Attorney for Lovell Leon Brown

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United States v. Cheatham, et al
CR18-131RAJ

/s/ Lee Edmond

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/s/ Thomas Weaver

THOMAS WEAVER

Attorney for Martin Banks

/s/ Emily Gause

EMILY GAUSE

Attorney for Luis Perez-Cruz

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Attorney for Alonzo Williams Baggett

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United States v. Wesley Armstrong
CR18-144RAJ

/s/ Nicholas Marchi
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United States v. Bobby Beasley
CR18-145RAJ

/s/ Michael Martin
MICHAEL MARTIN
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United States v. Jihad Zeigler
CR18-161RAJ

/s/ Phil Brennan
PHIL BRENNAN
Attorney for Jihad Zeigler

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CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s).

/s/Karen Wolgamuth

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